

REC'D MAY 30 2024

ORDER APPEAL

I Valery Williams here by Appeal Order by Judge John Milton Younge on the following,

I. Failure to state a Claim

- a. Ms. Williams fails to state a Claim against the City of Philadelphia for a violation of the Fourteenth Amendment.**

The Philadelphia Water Department is an agency of the City of Philadelphia implementing the City's official policies. PWD did violate my constitutional rights per the 14th Amendment Due Process. The City is Liable for all damages caused.

- b. Ms. Williams failed to claim that her injury is the result of a municipal policy**

I presented the PWD regulations and policies on Water Termination that states along with PUC, that Notice must be provided to customer before termination of water services.

- c. Ms. Williams failed to plead that her alleged injury is the result of a custom.**

I presented my case on Law, not custom. Whether PWD customarily terminates water services without notice was unknown to me. This matter is all about me and how PWD violated the Law.

II. Futility of Amendment

This is Ms. Williams 2nd attempt to state a Claim, the allegation that the City failed to follow its own notice procedures in Ms. Williams's case is simply insufficient to state a federal cause of action.

- a. I made a mistake on the regulation number on my complaint and corrected it only on my amended complaint. My Claim all the way through these Court Procedures was and is Violation of the 14th Amendment- DUE PROCESS. PWD shut my water off without Notice. I expanded on Federal Law, showing that PWD also violated State and Local Law by terminating my water services, without DUE PROCESS.**

The City throughout these Court proceedings have not responded to my charges or provided proof that they had complied with the Law. I have charged that PWD terminated my water services in violation of Federal, State and Local Law, polices and regulations. I have provided documented proof showing the violations from the beginning to the end. The reasons for the Shut-off range from meter defective to not making an appointment with PWD, all of which was provided to the Court.

Conclusion

My Answer on my Amended Complaint was submitted 09/08/2023. On 05/01/2024 I sent a letter to Judge Gene E.K. Pratter, inquiring about my case. On 05/22/2024 I received e-mail that my case had been reassigned to Judge John M. Younge. On 05/24/2024 I received e-mail that the Defendants motion to dismiss the case was granted and my case was closed. This Order to close my case is without merit. The City of Philadelphia's Water Department violated my Constitutional Right – Due Process under the 14th amendment. The City presented no proof or acknowledgement that they did not violate my rights. While I provided PWD documentation and other information, they indeed did violate my rights by not providing me with notice before suspending my water services. I request that my case be reopened, and a Judgement made. Thank you for your time and consideration.

Valery Williams

Ps, I have included information that is also in the Case record.

As Philadelphia Water transitions to 'smart meters,' residents are getting blindsided by huge bills and shutoffs



by Lizzy McLellan Ravitch June 13, 2022

The upgrade is to install real-time tracking in water meters, already used in many other locales. (and Philadelphia) Plagued with one hiccup after another, the program is about one-third complete after three years in the works, per the Water Department.

As Philadelphia upgrades its water meters, some residents are facing an unpleasant surprise: **water bills in the thousands of dollars. A few even saw their service shut off because they didn't upgrade quickly enough.**

Eliminating the undercharging issue is one of the main goals of the meter upgrade program, said PWD spokesperson Brian Rademaekers, who stressed the importance of the upgrades.

"Shutoffs are always the last enforcement option used after all other attempts to resolve issues are exhausted," Rakemakers said. If it does happen, he said 90% of the time service is restored within 24 hours.

The tech being added is a transmitter that shares water usage data with the department in real time. **(the electronic meters install from 2011-2013 already does this)** It also comes with real-time leak alerts. Similar "smart meter" technology was installed in New York City over a decade ago.

"An initiative like this is bound to run into hiccups," said Howard Neikrug, a former Philadelphia water commissioner who now runs The Water Center at the University of Pennsylvania.

"Every time you make a change, if you're doing it for half a million homes, you're going to have blips," Neikrug said. **(the 2011-2013 project went smoothly)** "Some of those blips are definitely the utility's fault, or issues, and some of it is the homeowners." That doesn't ease the shock of an unexpected thousand-dollar water charge. One resident of a South Philly rowhome told Billy Penn that post-meter upgrade, they got a bill for more than \$5k. The person, who asked to remain anonymous while they actively dispute the charges, said they were told it's the customer's responsibility to notice if they're being undercharged, **(it is not the customers responsibility it's the PWD billing Dept.'s responsibility)** then call the water department and ask for it to be fixed. Rademaekers confirmed the onus falls on the resident, even if you use autopay. "Any customer who receives a bill stating that they have an estimated reading must contact the Water Department to schedule a meter repair or replacement," the Water Department spokesperson said. In March, however, **some residents saw their water turned off** because they hadn't responded to attempts to start the meter upgrade. Several shut-off residents from West Philadelphia reached out to Councilmember Curtis Jones, Jr. All three said they had been contacted about upgrading their water meters but weren't able to adjust their schedules to accommodate the appointment, Jones told Billy Penn. **(2011-2013 project changed meters with Notice and no inconvenience to the customer)** "They have a life," he said. In other cities that have made similar upgrades, policies on not granting water meter access vary. On Long Island, for instance, New York American Water imposes a \$25 fee for residents who fail to provide access to their meter after three attempts. Jones brought up the access issues during PWD's council budget hearing in late April. "There were cases where people just couldn't be home to let you guys' in. **There were cases where they didn't get notification that you wanted to get in.** There were cases when they were reluctant to let anyone into their home during COVID and they didn't know [postponing the upgrade]

was available,” Jones said. **“There are cases where people didn’t know until the day of the shutoff that they were going to be victimized in that way.”** In testimony in response, Deputy Water Commissioner Donna Schwartz acknowledged some people were moved to the end of the list because they expressed COVID-19 concerns. **“If you did no response whatsoever to any of the mailings or any of our attempts to contact you, then yes, we did shut off,”** Schwartz said. **(If customer states that no Notice by mail in his monthly bill or in a separate mailing came to the residence, then shut-off must be discontinued and water restored. Notice and compliance to follow per State and Local regulations. Shut-off’s must follow NOTICE of an impending Shut-Off and the right to Appeal.** Some attempts at customer response might have been missed, however, at no fault to residents.**(Then water services should be turned back on immediately with proper mailed notice to follow for installation of upgrade meter)** The contractors doing the meter upgrade are also handling meter upgrade-related customer service, per Rademaekers. A software issue discovered last month was causing some calls to be dropped when PWD operators transferred them over, he said. “We addressed this issue and are currently working with the city to upgrade to a completely new phone system for the meter shop,” Rademaekers added. He also noted social media and email are monitored for complaints. The department is aiming to finish within the next two years, water operations administration manager **Steve Junod said. If you haven’t yet been contacted about your meter upgrade, there’s currently no way to see when it will be your turn.** The department isn’t publishing the upgrade routes “for security reasons,” according to Rademaekers, **so residents only will know when they’re due for the upgrade by monitoring their mail and bills. (a simple letter to schedule an appointment mail to all clients will suffice and those that do not comply steps should be taken to get their compliance other than suspending there water services).**

Meter Upgrade It's time to upgrade your water meter!

The Philadelphia Water Department is installing new meter reading devices in every home in the city.

If you have received a letter in the mail pointing you to this page, that means we're going to be working in your neighborhood. You must schedule your installation appointment within 30 days of receiving the letter.

Schedule Your Appointment

Appointments are available Monday - Saturday, 7:00 a.m. - 8:00 p.m.

Call (215) 709-5329

or

Chat with a Scheduler

This upgrade is **required** (not MANDATORY, Shut-offs are mandatory according to regs and policy of local and state governments and does not apply to upgrade requirements) and there is **no charge** for installation.

The work will be done by **our contractors, Contract Callers, Inc. (CCI), and U.S. Facilities (USF).** Another contractor, Black IPO, will be performing quality assurance tests after some **installations.** Contractors will have marked cars and photo identification.

Your health and safety are our priority. Our teams follow all state and local requirements, including protective equipment, sanitizing procedures, and social distancing.

You may delay installation due to COVID-19 health concerns by calling the scheduling number and requesting a deferral.

Benefits for you:

- **You'll be able to see your daily usage online, without calling or waiting for a monthly bill.**

I have provided you with the only two notices I received from PWD and the Federal, State and Local policies. The notices are dated.

1. After shutting my water off a notice was stuck in my door informing me that my water was suspended, the reason and how to restore my water.
2. I received a second notice by mail dated January 12th, 2023, 6 days after my water was shut off. **It was a Notice of Non-compliance with Meter regulations. It stated to avoid Service Suspension to make an appointment in 30 days. My water was already suspended, had been since January 6th, 2023.** The Notices also differ in their reasons for access to my meter.
 - A. The Shut-off notice states that my meter is non-accessible and non-functioning.**
 - B. The Notice of Non-Compliance states that the water meter or radio device attached to the meter needs service (there was nothing attached to the meter).**

All of this correspondence and more is in my case file proving that PWD Suspended my water service without cause, which caused physical, mental and financial stress.

PHILADELPHIA
WATER
DEPARTMENT

WATER SHUT OFF

ADDRESS / DIRECCION:

710³ S MEDLEY ST

DATE / FECHA:

1/6/23

REASON or REASONS:

☐ **Non-Payment of Bill**

You have not paid your bill, and did not respond to a prior notice.

☐ **Unauthorized Restoration**

Your service was improperly restored after a previous shutoff.

☒ **Meter Non-Compliance**

We have been unable to access the water meter. You must have a functioning and accessible meter.

AMOUNT DUE / CANTIDAD DEBIDA

TO RESTORE YOUR WATER:

For Non-Payment, or Unauthorized Restoration:

► **First**, pay the amount due (See "Ways to Pay" below). **Then**, call (215) 685-6300 to verify your payment.

OR

► Call (215) 685-6300 to set up a payment agreement.

For Meter Non-Compliance:

► Schedule a meter appointment. Call the number marked: ☐ (215) 685-6300 OR ☒ (215) 685-3000

WAYS TO PAY:



The fastest way to restore service is to pay online or in person.



Online: www.phila.gov/pay

eCheck is free! Fees apply for debit & credit payments.



In person:

Monday – Friday, 8:30am – 5:00pm

Center City (accepts cash)

CHARGES:

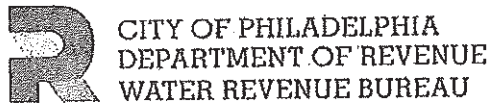
You must pay a restoration charge.

If we could not access your property's curb stop to shut the water off, or if you tamper with your meter, you will have to pay additional charges.

Restoration

Service line 2" and smaller \$60

Service line larger than 2" \$140



1101 Market Street
5th Floor
Philadelphia, PA 19107

OWNER/OCCUPANT
710 S SMEDLEY ST
PHILADELPHIA PA 19146

Questions:

www.phila.gov

(215) 685-6300

Monday - Friday, 8am-5pm

January 12, 2023

Water Access Code:

000403022

Account Number:

013-73100-00710-001

Service Address:

710 S SMEDLEY ST

PHILADELPHIA PA 19146

Meter Service Appointment Required

NOTICE OF NON-COMPLIANCE WITH METER REGULATIONS

Dear Customer:

Philadelphia Water Department (PWD) service representatives have tried to contact you previously and need to access the above property. PWD needs to service the water meter or radio device attached to the meter. Please call (215) 685-6300 to discuss your scheduling options, including the option to defer because of COVID-related health concerns.

Under Philadelphia Water Department Regulations Section 401.3(e) property owners, tenants, and other occupants must provide access to the property for reading or replacing water meters or related components. **Failure to comply will result in suspension of water service.** In addition, if your property is in violation of City Code section 13-502 for failure to provide an accessible and operable shutoff valve located at the curb, PWD may correct this condition, suspend water service, and bill the property owner for the plumbing costs. The average cost for this work is \$885.00.

FIRE PROTECTION: Water shut off may affect your fire suppression system if the property is served by a single/ combined domestic and fire service line.

Note: If this property is tenant- occupied, please share this information with the tenant.

AVOID SERVICE SUSPENSION AND POSSIBLE CHARGES BY MAKING AN APPOINTMENT WITHIN 30 DAYS

Call (215) 685-6300 and choose **option #4**, meter appointments, from the menu. When prompted, enter code **946417** to schedule your appointment using our automated scheduling system.

Appointment times are available:

Monday - Saturday
8 a.m. - 5 p.m.

Thank you,

Metering Unit

Philadelphia Water Department

Federal Policy

According to the Fourteenth Amendment of the United States Constitution, citizens afforded due process. As it relates to utility services, utility companies must provide consumers fair notice prior to termination. If notice was not given, an individual was not afforded due process of law.

When Water Can Be Shut Off Without Notice

Each state has its own utility **disconnection policy** that determines the process utility companies must follow before shutting off utilities. **In many states, water companies are permitted to shut off your water without notice in very limited situations, including situations where you are:**

- Stealing water service
- Getting water service through fraud
- Tampering with your water meter
- Using a bad check to avoid water shutoff

If your water has been shut off without notice and one of the above situations does not apply, **you should file a complaint with your state's public service commission (also sometimes called public utilities commission), which is the governing body that regulates the rates and services of a public utility.**

Could not file a complaint with public service commission

Pennsylvania Public Utility Commission has no jurisdiction over the Philadelphia Water Department, cannot take Complaints.

NOTICE PROCEDURES PRIOR TO TERMINATION

§ 56.91. General notice provisions and contents of termination notice.

* * * * * **(b) A notice of termination must include, in conspicuous print, clearly and fully the following information when applicable:**
* * * * *

(4) The date on or after which service will be terminated unless one of the following occurs:

- (i) Payment in full is received.
- (ii) The grounds for termination are otherwise eliminated.
- (iii) A payment [agreement] arrangement is established.
- (iv) Enrollment is made in a customer assistance program or its equivalent, if the customer is eligible for the program.
- (v) A dispute is filed with the Public Utility or the Commission.
- (vi) Payment in full of amounts past due on the most recent payment ~~agreement~~ ARRANGEMENT is received.

* * * * * **(6) A statement that the customer should immediately contact the public utility to attempt to resolve the matter.** The statement must include the address and telephone number where questions may be asked, how payment [agreements] arrangements may be negotiated and entered into with the public utility, and where applications can be found and submitted for enrollment into the public utility's universal service programs, if these programs are offered by the public utility.

(7) The following statement: "If you have questions or need more information, contact us as soon as possible at (public utility phone number). After you talk to us, if you are not satisfied, you may file a complaint with the Public Utility Commission. The Public Utility Commission may delay the shut off if you file the complaint before the shut off date. To contact them, call 1 (800) 692-7380 or write to the Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, Pennsylvania 17105-3265."

State PUC Policy- Has no jurisdiction over PWD, cannot take complaints against the PWD, but has jurisdiction over PGW, PECO and phone companies

Philadelphia Water Department Regulations

100.4 Shut off of Utility Service (regulation not applied)

(a) Nothing in this regulation shall modify the Department's right to shut off Utility Service without prior notice to **prevent or alleviate an emergency which presents a danger to life, health, safety or property.**

(b) In addition to shut offs caused by revocations of acceptance of applications, the WRB may cause the Water Department to shut off Utility Service at a Service Location, **after notice has been given and the opportunity for an informal hearing provided, on the following grounds:**

(2) when the Water Department or the WRB is denied for **two consecutive billing periods access to the Service Location to read or make changes or repairs to the meter.**

100.5 Notice of Shut off (regulation not applied to my case)

(a) Shut off Notice to Residential Customer **A shut off notice in English and Spanish will be mailed or delivered to a Customer.**

(1) Account number; (2) Date of notice; (3) Address of property; (4) Amount past due; **(5) Date on or after which water service will be shut off.**

(c) Shut off for Lack of Meter Access If a Service Location is subject to shut off due to lack of a meter reading or lack of access to the meter, **the Department will send or deliver a notice to the Service Location by mail or hand delivery stating that to avoid shut off of service and possible additional charges the Customer must contact the Department and provide access to the meter by the Department.**

(g) **requesting an informal hearing within ten (10) days if a dispute exists as to any matter described in Section 100.7(a) of these regulations.**

100.6 Shut-Off Notice Schedule (regulation not applied to my case)

(3) **A notice for failure to provide access to the meter pursuant to Section 100.4 of these regulations will be mailed or hand delivered in accordance with Section**

100.5(c) of these regulations and at least thirty (30) days prior to the date of the proposed shutoff of service

100.7 Administrative Hearings (regulation not applied to my case)

an Authorized User may request an informal hearing before a Revenue Department hearing officer to contest a written decision or determination of the Water Department or WRB with regard to the following:

(4) shut off for failure to provide access to the meter.

100.8 Rights Pending Final Decision (regulation not applied not to my case)

(a) Except as otherwise provided in this Section or elsewhere in these regulations,

WRB and the Water Department will not shut off Utility Service to a Service Location

100.11 Procedure at Shut Off (regulation not applied to my case)

(a) Provided that no action to avoid or delay a shut-off has been taken as provided herein, a Department representative will visit the Residential Property on or after the scheduled date to shut off service.

(d) If service is to be shut off for lack of a meter reading, shut off may be avoided by permitting the Department representative to read the meter.

(e) When the water service is shut off, the Department representative shall leave at the property a notice informing the residents of the shut off and what steps can be taken to restore the water service.

100.12 Restoration of Service

(a) Service shall be restored within one (1) day, if possible, when the following conditions are met:

(1) The Customer permits a meter reading or access to the meter for inspection, changes or repairs.

reg 401.2 City Water Metering- states the meter is the property of the City. The City is responsible for **testing, maintaining, repairing and replacing the meter so that it remains operational in accordance with accepted utility standards for meter performance All meters new and previously used shall be tested before installation or reinstallation. A customer may apply to the Department for a test of the accuracy of a meter as provided for in Section 306.1 of these Regulations.**

Reference to 100.12 (1)

Restoration of my water did not consist of a meter reading, inspection, changes or repairs. Usage readings were being received by PWD and no changes or repairs to the meter was required.

Reference to Reg 401.2

PWD neither repaired nor replaced my meter. My meter that was installed in 2011 was operational without defect before my services were terminated and after. After giving access to said meter, PWD installed a battery on top of said meter. To this day I have not been provided with a written explanation of the batteries' function.

Yahoo/Inbox

ecf_paed@paed.uscourts.gov

From:ecf_paed@paed.uscourts.gov

To:paedmail@paed.uscourts.gov

Fri, May 24 at 10:44 AM

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United States District Court

Eastern District of Pennsylvania

Notice of Electronic Filing

The following transaction was entered on 5/24/2024 at 10:43 AM EDT and filed on 5/24/2024

Case Name: WILLIAMS v. PHILADELPHIA WATER DEPARTMENT

Case Number: [2:23-cv-01728-JMY](#)

Filer:

Document Number: [18](#)

Docket Text:

MEMORANDUM ORDER THAT DEFENDANTS MOTION TO DISMISS THE AMENDED COMPLAINT (DOC. NO. 13) IS GRANTED. PLAINTIFFS AMENDED COMPLAINT IS DISMISSED WITH PREJUDICE. THE CLERK OF COURT IS INSTRUCTED TO MARK THIS CASE CLOSED FOR ALL PURPOSES, INCLUDING STATISTICS. SIGNED BY DISTRICT JUDGE JOHN M. YOUNGE ON 5/24/24. 5/24/24 ENTERED AND COPIES E-MAILED.(amas)

2:23-cv-01728-JMY Notice has been electronically mailed to:

Melissa Medina melissa.medina@phila.gov

VALERY WILLIAMS VALERYA.MCGRIFF@YAHOO.COM

2:23-cv-01728-JMY Notice will not be electronically mailed to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1001600548 [Date=5/24/2024] [FileNumber=19661405-0] [75f87e005581def8018fdc1628c5191059e88618108c95d2c516330e9cdf3a645632192f7a7ba0d844ad10c3538291d8905ac156b44f09540f346cf63f9355e8]]

ecf_paed@paed.uscourts.gov

From: ecf_paed@paed.uscourts.gov

To: paedmail@paed.uscourts.gov

Wed, May 22 at 12:32 PM

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United States District Court

Eastern District of Pennsylvania

Notice of Electronic Filing

The following transaction was entered on 05/22/2024 at 11:20:49 AM EDT and filed on 05/22/2024

Case Name: WILLIAMS v. PHILADELPHIA WATER DEPARTMENT
Case Number: [2:23-cv-01728-JMY](#)
Filer:
Document Number: [16](#)

Docket Text:

ORDER THAT THIS CASE IS REASSIGNED FROM DISTRICT JUDGE GENE E.K. PRATTER TO DISTRICT JUDGE JOHN M. YOUNGE FOR ALL FURTHER PROCEEDINGS. SIGNED BY GEORGE V WYLESOL, CLERK OF COURT ON 5/22/24. 5/22/24 ENTERED AND COPIES E-MAILED.(amas) (Main Document 16 replaced on 5/22/2024) (st).

2:23-cv-01728-JMY Notice has been electronically mailed to:

Melissa Medina melissa.medina@phila.gov

VALERY WILLIAMS VALERYA.MCGRIFF@YAHOO.COM

2:23-cv-01728-JMY Notice will not be electronically mailed to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1001600548 [Date=5/22/2024] [FileNumber=19655392-0] [809293140b381bcc2ce4d0cc840393644c75960461f660eb0727dda13147c10ce1b46ff698310ecd42df234a4dd2cd056c445ae314415b0b560729b976aee98f]]

This is a re-generated NEF. Created on 5/22/2024 at 12:31 PM EDT

Activity in Case 2:23-cv-01728-JMY WILLIAMS v. PHILADELPHIA WATER
DEPARTMENT Order (Memorandum and/or Opinion)

Activity in Case 2:23-cv-01728-GEKP WILLIAMS v. PHILADELPHIA WATER
DEPARTMENT Letter

Yahoo/Inbox

From:ecf_paed@paed.uscourts.gov

To:paedmail@paed.uscourts.gov

Wed, May 1 at 10:15 AM

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United States District Court

Eastern District of Pennsylvania

Notice of Electronic Filing

The following transaction was entered on 5/1/2024 at 10:14 AM EDT and filed on 4/30/2024

Case Name: WILLIAMS v. PHILADELPHIA WATER DEPARTMENT

Case Number: [2:23-cv-01728-GEKP](#)

Filer: VALERY WILLIAMS

Document Number: [15](#)

Docket Text:

Letter by VALERY WILLIAMS. Re: Judgment. (Attachments: # (1) COVER SHEET)(dt)

2:23-cv-01728-GEKP Notice has been electronically mailed to:

Melissa Medina melissa.medina@phila.gov

VALERY WILLIAMS VALERYA.MCGRIFF@YAHOO.COM

2:23-cv-01728-GEKP Notice will not be electronically mailed to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

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Document description: COVER SHEET

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1001600548 [Date=5/1/2024] [FileNumber=19611112-1
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Activity in Case 2:23-cv-01728-JMY WILLIAMS v. PHILADELPHIA WATER
DEPARTMENT Order Reassigning Case

Yahoo/Inbox